

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

OneWest Bank, FSB,

Plaintiff,

vs.

James Bradley Bailey,

Defendant.

C/A No. 0:15-3845-JFA-PJG

ORDER

James Bradley Bailey (“Bailey”) filed a notice of removal which purports to remove Civil Action No. 2009-CP-32-2810 from the Lexington County Court of Common Pleas. (ECF No. 1.). The putative basis for removal is federal question jurisdiction. Plaintiff OneWest Bank, FSB (“OneWest”) filed a motion seeking remand of this case to state court (ECF No. 7) and a motion to alter and shorten Bailey’s time for response to OneWest’s motion for remand under Local Civil Rule 6.01 (D.S.C.) (ECF No. 8). Bailey filed a response in opposition. (ECF No. 11).

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation wherein she recommends that this Court remand this matter to state court *sua sponte* for lack of subject matter jurisdiction. (ECF No. 13). The Report and Recommendation sets forth the relevant facts and standards of law in this matter, and the Court incorporates such without a recitation.

In her Report and Recommendation, the Magistrate Judge opined that this Court lacked subject matter jurisdiction over the action both because Bailey failed to comply with removal statute and

¹ The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

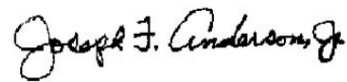
because no federal question existed on the face of the well-pleaded complaint. As such, the Magistrate Judge concluded the matter should be remanded *sua sponte* to state court.

After carefully reviewing the applicable laws, the record in this case, and the Report and Recommendation, this Court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The Report is incorporated herein by reference in its entirety.

Accordingly, this Court remands this matter to state court and finds that OneWest's motion to remand (ECF No. 7) and motion to alter time pursuant to Local Civil Rule 6.01 (D.S.C.) (ECF No. 8) are moot.

IT IS SO ORDERED.

October 1, 2015
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge